United Nations CERD/C/OMN/CO/2-5

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined second to fifth periodic reports of Oman*

1. The Committee considered the combined second to fifth periodic reports of Oman (CERD/C/OMN/2-5), submitted in one document, at its 2426th and 2427th meetings (CERD/C/SR.2426 and 2427), held on 27 and 28 April 2016. At its 2439th meeting, held on 9 May 2016, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined second to fifth periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee also welcomes the open and constructive dialogue with the State party's delegation.

B. Positive aspects

3. The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities, in 2009.

4. The Committee also welcomes the legislative and institutional measures taken by the State party during the reporting period, in particular:

(a) The adoption of the Trafficking in Persons Act (2008) and the development of the National Plan against Trafficking in Persons (2008-2016);

(b) The adoption of the Child Act (2014);

(c) The abolishment of the State Security Court pursuant to Royal Decree No. 102/2010.

* Adopted by the Committee at its eighty-ninth session (25 April-13 May 2016).

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C. Concerns and recommendations

Relevant statistical data

5. The Committee notes the discrepancy between the State party's position that it does not collect population data disaggregated by ethnic origin as its population is not classified by ethnic group and the delegation's statement that Omani society is ethnically diverse. The Committee reiterates its concern about the absence of statistical data on the ethnic composition of the population. It also notes the lack of relevant socioeconomic indicators regarding the enjoyment of the rights guaranteed under the Convention by members of various groups, in particular the Baloch community, people of African descent, former slaves and their descendants, and workers from South Asia, as such data are necessary to determine the progress made and difficulties encountered in implementing the provisions of the Convention (arts. 1 and 5).

6. **Drawing attention to the revised guidelines for reporting under the Convention (see CERD/C/2007/1, paras. 10-12), and recalling its general recommendations No. 24 (1999) concerning article 1 of the Convention and No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4 of the Convention, the Committee recommends that the State party collect and publicize reliable statistical data on the social and economic situation of individual ethnic groups, including migrant workers and, in particular, migrant domestic workers, disaggregated by areas, in order to provide an adequate empirical basis for the development of policies to enhance the equal enjoyment of rights under the Convention in Oman. The Committee requests the State party to provide such information in its next periodic report.**

National human rights institution

7. The Committee notes that, in 2008, the State party established the National Human Rights Commission, which is responsible for monitoring the protection of human rights in the State party. The Committee is concerned, however, that the Commission is accredited with B status, essentially due to its limited independence and lack of a clear mandate.

8. **The Committee recommends that the State party take immediate steps to bring the National Human Rights Commission into full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). To this end, the State party should effectively implement the recommendations made to Oman by the Global Alliance of National Human Rights Institutions (formerly the International Coordinating Committee of National Institutions for the Promotion and Protection of human Rights) in 2013. The Committee draws the State party's attention to its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention.**

Civil society

9. The Committee expresses great concern at the lack of information from non-governmental organizations (NGOs) on the State party's efforts and challenges in implementing the Convention. The Committee is also concerned at reports indicating that NGOs operate within restricted boundaries in the State party.

10. **The Committee underscores the importance that it attaches to reports submitted by NGOs, which serve to enrich the dialogue between the Committee and the State party's delegation during the consideration of the State party's reports. The Committee recommends that the State party continue to consult and expand its**

dialogue with civil society organizations working in the area of human rights protection, in particular combating racial discrimination, in connection with the preparation of its next periodic report. The Committee also recommends that the State party introduce the necessary changes to the Civil Associations Act (promulgated by Royal Decree 14/2000) with a view to creating an independent civil society.

Legal status of the Convention

11. While noting the assertion by the delegation that the Convention is part of the State party's laws and supersedes any conflicting legislation, the Committee is concerned about the lack of instances in which the provisions of the Convention have been invoked or applied by domestic courts (art. 2).

12. **The Committee recommends that the State party strengthen its efforts to make the Convention more widely known, in particular through training courses and seminars for the judiciary, prosecutors and lawyers as well as the police and other law enforcement officials, so as to foster its application by domestic courts. Furthermore, the State party should provide an update on cases in which the Convention has been applied in its next periodic report.**

Absence of comprehensive anti-discrimination legislation

13. The Committee is concerned about the lack of a definition of racial discrimination in line with article 1 of the Convention, as well as the non-compliance of existing legislation with article 4 of the Convention, notably the non-prohibition of organizations that promote and incite racial discrimination. The Committee notes with concern that the State party has not adopted comprehensive legislation to prevent and combat racial discrimination (arts. 1, 2 and 4).

14. **Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention and No. 15 (1993) on article 4 of the Convention, the Committee reiterates its previous recommendation (see CERD/C/OMN/CO/1, para. 14) that the State party adopt comprehensive legislation on the elimination of racial discrimination that includes a definition of direct and indirect discrimination and incorporates all prohibited grounds of discrimination, in line with article 1 of the Convention. The Committee also recommends that the State party ensure that its legislation is in full conformity with the provisions of article 4 of the Convention, including by prohibiting organizations that promote and incite racial discrimination.**

Non-citizens

15. The Committee is concerned that fundamental rights enumerated in the Basic Law of the State, such as the right to equality before the law (art. 17), the right to free choice of occupation (art. 12) and the right to freedom of assembly (art. 32) are granted to citizens only.

16. **The Committee reiterates its previous recommendation (see CERD/C/OMN/CO/1, para. 16) to revise its legislation with a view to extending the application of fundamental freedoms to non-citizens, to the extent recognized under international law. The Committee draws the State party's attention to its general recommendation No. 30 (2004) on non-citizens.**

Situation of minorities

17. While appreciating the data provided in the Statistical Yearbook 2015 on the participation of women in political life, as well as on the employment and education of women, the Committee remains concerned about the lack of similar information pertaining to ethnic minorities, in particular women belonging to ethnic minorities. The Committee is also concerned about the lack of information on measures adopted to ensure that all ethnic groups and migrant workers equally enjoy the rights contained in article 5 of the Convention (arts. 2 and 5).

18. The Committee reiterates its previous recommendation (see CERD/C/OMN/CO/1, para. 17) that the State party take the necessary measures, including through special measures, to ensure the effective enjoyment of all rights contained in article 5 of the Convention by all ethnic groups and migrant workers living in the State party. The Committee further requests that the State party provide detailed information about all such measures and their impact in its next periodic report.

Migrant workers

19. The Committee is concerned about the persistence of the de facto *kafala* system in the State party that governs the employment of migrant workers and places them in a highly dependent relationship with their employers, which may involve unpaid salaries, unilateral cancellation of work permits by their employers, poor and unhygienic living conditions or confiscation of their passports. The Committee is also concerned about the existence of many mediation and conciliation committees, the limited information provided on the outcomes of complaints submitted by migrant workers and the small number of cases brought before the courts despite the large number of complaints (art. 5).

20. **The Committee recommends that the State party:**

(a) **Abolish the de facto *kafala* (sponsorship) system for hiring migrant workers and substitute it with a framework that guarantees respect for the rights of migrant workers and is aimed at reducing the vulnerability of migrant workers to exploitation and abuse by their employers;**

(b) **Intensify its efforts to prevent and investigate cases of abuse of migrant workers, including forced labour, and prosecute those responsible, to increase the number and presence of qualified and trained labour inspectors and to inform the Committee about the results of these investigations;**

(c) **Reinforce existing mechanisms for the submission of complaints by migrant workers, with a view to ensuring the independence and effectiveness of these mechanisms, and ensure that migrant workers can submit complaints without fear of reprisals;**

(d) **Take measures to raise awareness among migrant workers about all existing channels for submitting complaints, including filing cases with the courts, and, to this end, provide legal information and advisory services to victims and guarantee access to those services;**

(e) **Provide detailed information in its next periodic report on the number of complaints submitted by migrant workers and their outcomes.**

Domestic workers

21. The Committee is concerned that domestic workers, mostly women who are foreign nationals, are excluded from the ambit of national labour laws, instead Ministerial Orders No. 189/2004 and No. 1/2011 govern the work of domestic workers. The Committee is concerned that, as a result, domestic workers are deprived of fundamental rights and subject to a higher risk of abuse, including sexual exploitation, by their employers (art. 5).

22. **The Committee recommends that the State party rectify this human rights protection lacuna by extending the ambit of the national labour laws to domestic workers, which would also serve as a means of reducing their vulnerability to abuse, including sexual exploitation, by employers and facilitate their enjoyment of all rights, in particular freedom of movement, and the rights to work, free choice of employment, just and favourable conditions of work and to form and join trade unions. The Committee also invites the State party to consider ratifying International Labour Organization Domestic Workers Convention, 2011 (No. 189), especially given the large number of domestic workers in the State party.**

Trafficking in persons

23. The Committee is concerned that the State party is a transit and destination country for human trafficking, primarily of migrants from India, Pakistan, Bangladesh, Sri Lanka, the Philippines and Indonesia, mainly for purposes of forced labour and, to a lesser extent, forced prostitution. The Committee is also concerned about the limited number of investigations into this matter and the lack of information on court cases and sentences handed down in trafficking cases (arts. 5 and 6).

24. **The Committee recommends that the State party:**

(a) **Redouble its efforts to combat trafficking in persons, including by effectively implementing its National Plan against Trafficking in Persons (2008-2016) as well as the Human Trafficking Act No. 126/2008;**

(b) **Intensify investigations into trafficking in persons, prosecute those responsible and impose appropriate penalties;**

(c) **Increase assistance to victims and afford them adequate remedies;**

(d) **Strengthen the regulations governing recruitment agencies and ensure the accountability and legal responsibility of these agencies.**

Right to nationality and prevention of statelessness

25. The Committee appreciates the positive changes introduced through the updated nationality law (2014), which, inter alia, provide for children born out of wedlock to unidentified parents to be entitled to Omani nationality. However, the Committee remains concerned that the new law only allows Omani women married to non-Omani men to transmit their nationality to their children under strict conditions. The Committee is also concerned that, according to the new law, the State may revoke the citizenship of Omanis if they engage in a group, a party or an organization that adopts principles or doctrines that can harm the interests of Oman (art. 5).

26. **The Committee recommends that the State party revise the new nationality law by removing all gender-based discriminatory provisions and ensuring that the Government cannot revoke citizenship rights of persons who exercise their fundamental rights, including the right to freedom of expression, assembly and association, with a view to preventing statelessness. The Committee also recommends**

that the State party consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Refugee protection

27. The Committee is concerned about the absence of legislation or administrative regulations governing the status of asylum seekers or refugees in the State party (art. 5).

28. **The Committee recommends that the State party adopt national asylum legislation in line with international standards. The Committee also recommends that the State party consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The Committee further requests that the State party submit detailed information in its next periodic report on the actual enjoyment by asylum seekers and refugees of the rights set out in the Convention.**

Complaints of racial discrimination and remedies

29. The Committee reiterates its concern about the lack of information on cases of racial discrimination before domestic courts and points out that the absence of such cases does not mean that there is no racial discrimination, but may rather reveal the existence of lacunae in the justice system. Furthermore, bearing in mind the mandate of the National Human Rights Commission to receive complains from individuals whose rights have been violated, the Committee regrets the lack of information on the real use of this complaint mechanism (arts. 5 (a) and 6).

30. **The Committee recommends that the State party effectively investigate cases of racial discrimination and provide victims with adequate remedies. It also encourages the State party to step up its efforts to inform the population about their rights and the legal remedies at their disposal for dealing with cases of racial discrimination and human rights violations, including the right to invoke the Convention before the domestic courts. In the light of its general recommendation no. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take the steps necessary to ensure that everyone, particularly groups that are more vulnerable to racial discrimination, including migrant workers and minority groups, have access to justice by providing them with legal advice and interpretation services. The Committee further recommends that the State party include statistical data in its next periodic report on such cases and their outcomes, including complaints submitted to the National Human Rights Commission.**

D. Other recommendations

Ratification of other instruments

31. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying the core international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.**

Follow-up to the Durban Declaration and Programme of Action

32. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

33. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

34. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in its follow-up to the present concluding observations.

Amendment to article 8 of the Convention

35. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention that was adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Declaration under article 14 of the Convention

36. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

Follow-up to the present concluding observations

37. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraph 20 (b) and (d) above.

Paragraphs of particular importance

38. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 20, 22 and 30 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

39. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, including English, as appropriate.

Preparation of the next periodic report

40. The Committee recommends that the State party submit its combined sixth to ninth periodic reports, as a single document, by 2 January 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.